[Docket 23267; Order 71-4-167]

ALASKA AIRLINES, INC., ET AL.

Order Deferring Action and Establishing Procedural Framework

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of April 1971.

On April 6, 1971, there were filed pursuant to section 412 of the Federal Aviation Act of 1958, as amended (the Act), two agreements between Alaska Airlines, Inc., American Airlines, Inc., Continental Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.[1] The first agreement (CAB 22367) is entitled "Agreement to Establish the Airline Industrial Relations Conference" (AIRCO); and the second (CAB 22368), constitutes the Articles of Association of AIRCO.[1a]

According to the Articles of Association the particular objects and purposes of AIRCO are as follows:

(a) Planning and recommending a program to all member carriers for promoting a more consistent position on issues in future or pending labor negotiations involving such carriers;

(b) Collecting and disseminating useful and practical statistics regarding wages, earnings, fringe benefits, and other labor and personnel data, and providing a forum for the discussion of industrial relations matters for all members, and at fees fixed by the Advisory Board for eligible carriers which do not become members;

(c) Determining the position of the member carriers on legislation related to or affecting labor relations and implementing such determinations in cooperation with the Air Transport Association to promote effective handling and to avoid duplication by AIRCO of the Air Transport Association apparatus, resources, and expertise;

(d) Furnishing general labor law research;

(e) Representing member carriers in appearances before courts, administrative agencies, and boards as authorized by the Advisory Board;

(f) Upon approval to do so by a two-thirds (⅔) majority vote of the Board of Directors, acting for one or more member carriers as representative in labor relations matters provided such member carrier or carriers shall have empowered AIRCO to act on its or their behalf in the specific matter by written power of attorney in a form prescribed by the Board, which power of attorney shall be revocable at any duly constituted meeting of the Board, except as provided in Article II(b) of these articles;

(g) Advising and consulting with appropriate officials of each of the member carriers in order to promote uniformly good employee relations and to minimize grievances.

The carriers eligible to participate in the agreements are designated as (1) Trunk Carriers and Pan American, and (2) Regional, Local, Territorial, and All-Cargo Carriers. The carriers listed under the respective headings, except for Trans Caribbean Airways, Inc., all hold certificates of public convenience and necessity for scheduled route operations.

The agreements became effective upon the execution thereof by nine "Trunk Carriers and Pan American" as such term is defined in the Articles of Association and will continue in effect until December 31, 1975, and thereafter from year to year subject to withdrawal provisions set forth in the Articles of Association. However, the agreements are terminable to the extent that they may be disapproved by the Board or to the extent that any conditions imposed by the Board may render their continued existence impracticable or of insufficient value to justify their cost.

A copy of the agreements are attached as an appendix hereto. The Board has decided to defer action pending receipt of comments thereon and to establish a procedural framework within which any such comments shall be filed. In this respect, we would expect interested persons to address themselves, in particular, to whether the agreements should be approved or disapproved pursuant to the standards set forth in section 412 of the Federal Aviation Act, and, if approved, for what duration and under what conditions. Procedurally, we shall allow (1) the parties to the agreements a period of 15 days from the date of this order during which to supply detailed justification for approval of the agreements in the public interest; (2) other interested persons a period of 15 days thereafter within which to file answers; and (3) a period of 15 days thereafter for the filing of reply comments.

Accordingly, it is ordered, That:

1. Action on Agreements CAB 22367 and 22368 be and it hereby is deferred;

2. The air carrier parties to Agreements 22367 and 22368 shall file, within 15 days from the date of this order, detailed comments justifying approval of the agreements pursuant to section 412 of the Act;

3. Other interested persons be and they hereby are afforded a period of 15 days thereafter, within which to file answers;

4. The airline parties to the agreements, and other interested persons, be and they hereby are afforded a period of 15 days after answers within which to file reply comments; [2] and

5. This order shall be served upon all certificated air carriers (both scheduled and supplemental); AIRCO, ATA, and NACA; the Departments of Justice, Transportation, and Labor; Airline Dispatchers Association; Brotherhood of Railway, Airline, and Steamship Clerks; Communication Workers of America; Flight Engineers International Association; International Association of Machinists and Aerospace Workers; Transport Workers Union of America; Airline Pilots Association, International; Allied Pilots Association; Aircraft Mechanics Fraternal Association; Airline Employees Association; and International Brotherhood of Teamsters.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-6063 Filed 4-29-71;8:49 am]

[1] Counterparts subsequently were filed on behalf of Hughes Air Corp. doing business as Air West and Mohawk Airlines, Inc.

[1a] Filed as part of the original document.

[2] An original and 19 copies of all comments filed pursuant to ordering paragraphs 2, 3, and 4 hereof shall be filed with the Board's Docket Section. With regard to comments filed pursuant to paragraph 2 hereof, there shall be attached thereto a certificate of service pursuant to our Rule 8(e) (14 CFR 302.8(e)) indicating that service was made upon each person designated in ordering paragraph 5. In the case of answers the certificate of service shall indicate that such persons and all persons filing comments have been served; and in the case of reply comments the certificate of service shall indicate that all persons filing answers have been served. The Board requests that all comments be couched as specifically as possible, and that the use of unsupported or bare conclusory statements be avoided.

[Docket No. 23320; Order 71-4-170]

CANADIAN VOYAGEUR AIRLINES LTD. ET AL.

Statement of Tentative Findings and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1971.

On December 17, 1970, the Canadian Transport Commission issued an order, subsequently implemented by the Air Transport Committee (ATC), amending the Canadian licenses of about 200 U.S. air taxi operators. The amendment, in effect, prohibits U.S. air taxis from operating to remote resort and lake areas in Northwestern Ontario by limiting their operations to two stops on each flight, one being at a Customs port of entry (in effect a technical rather than a traffic stop), the other being at a licensed base

of a Canadian charter commercial air carrier.[1]

The stated reason for the foregoing decision, as expressed by the Chairman of the ATC in a letter to the Chairman of the Civil Aeronautics Board, was receipt by the ATC, since at least 1960, of representations from air carriers, various associations and public officials from the area of Northwestern Ontario, which alleged "* * * that an excessive number of U.S. operators are operating transborder charter services with small aircraft into that area in particular, and that such carriers in their operations have been able to provide service to outlying areas without any check being possible on their activities nor on the traffic carried, and that without such control the area is in imminent danger of irreparable ecological damage and much diminished wildlife reserves." [2] Notwithstanding that this fear of depleted wildlife reserves and other ecological dangers appears to stem, not from the aircraft operations themselves, but rather from the alleged inability to police and enforce fish and game laws with respect to U.S. fishing and hunting parties which may be transported by air carriers of both flags, the ATC did not impose similar restrictions on Canadian small aircraft operators. Thus Canadian operators gained a significant competitive advantage over U.S. air taxis in that they alone continued to be authorized by both governments to provide through services to the wilderness areas involved.

Subsequently, the Board, on two occasions, requested the ATC to suspend the effectiveness of its order, pending bilateral resolution of these problems.[3] However, the most recent response of the ATC indicates that "the [Air Transport] Committee is not prepared to issue any blanket suspension of the orders pending bilateral discussions." [4]

In view of the foregoing, the Board has decided to direct Canadian Voyageur Airlines Ltd., Ignace Airways Ltd., Lac La Croix Quetico Air Services Ltd., Ontario Central Airlines Ltd., and Parsons Airways Ltd.—the Canadian operators holding permits [5] authorizing service in the affected area—and other interested persons to show cause why the foreign air carrier permits held by said Canadian operators should not be amended to restrict the operations of these carriers in a similar manner as U.S. air taxi operators have been restricted.[6] These restrictions will not apply to flights performed for purposes of medical evacuation or other similar emergency situations. In addition, the Board, upon application by the holder, may authorize the transborder carriage of traffic to and from designated areas within the area where the restricted transportation is involved, if the circumstances warrant.[7]

We tentatively find and conclude that the public interest requires the foregoing permit amendments. The basis upon which the named carriers were awarded their authority was the grant of reciprocal authorizations to U.S. carriers to operate to and from the affected area. The unilateral action of the ATC has significantly impaired that reciprocity. The U.S. carriers affected by the ATC decision have been put at an unwarranted competitive disadvantage because Canadian operators were not similarly restricted by their government.[8] The Board considers that as a matter of regulatory policy, a competitive and reciprocal balance of authority to the affected area should be restored by imposition of equivalent restrictions. See e.g., Foreign Air Carrier Permit Terms Investigation, Order 70–6–32, adopting Part 213 of the Board's economic regulations. The amendment here proposed, like the Part 213 regulation, will permit the Board to provide relief from those restrictions on the basis of reciprocal relief granted by the ATC.[9]

Accordingly, pursuant to sections 204(a) and 402 of the Federal Aviation Act of 1958, as amended,

It is ordered, That:

1. Canadian Voyageur Airlines Ltd., Ignace Airways Ltd., Lac La Croix Quetico Air Services Ltd., Ontario Central Airlines Ltd., and Parsons Airways Ltd., and any other interested persons, be and they hereby are directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to approval of the President, amend the foreign air carrier permits held by said carriers, so as to incorporate the following condition:

"The holder shall not engage in the carriage of persons in foreign air transportation between the United States and Canada whose journeys include a prior, subsequent or intervening movement by any commercial air service to or from a point in Ontario, west of a line drawn due North from Blind River, Ontario (46°11′ North latitude, 82°58′ West longitude), extending to the border between Ontario and Manitoba, not the licensed base of any Canadian charter commercial air carrier; *Provided, however,* That the above prohibition shall not apply to flights performed for purposes of medical evacuation, or other similar emergency situation; *And provided, further,* That the Board may, upon application by the holder, authorize the transborder carriage of traffic to and from designated areas within the area where the restricted transportation is involved, when the circumstances warrant; *And provided, further,* That the holder shall notify in writing all persons who contract to use the holder's services of the limitation imposed on its operations.";

2. Any interested person may file with the Board, within 20 days of the date of this order, a statement, supported by evidence, in opposition to or in support of the action set forth hereinabove; [10]

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[1] The operational limitation applies within the area of Northwestern Ontario west of a line drawn due north from Blind River, Ontario (46°11′ N., latitude, 82°58′ W. longitude) and extending to the border between Ontario and Manitoba.

[2] Letter to Chairman Browne from Chairman Belcher of the ATC, dated Dec. 4, 1970.

[3] Telegram of Dec. 21, 1970 and letter of Feb. 12, 1971, from Chairman Browne to Chairman Belcher of the ATC.

[4] Letter dated Mar. 2, 1971 from Chairman Belcher to Chairman Browne. Chairman Browne also received an interim letter dated Feb. 17, 1971, and a telegram of Jan. 5, 1971 from Chairman Belcher of the ATC. The exchange of letters stems from the fact that nonscheduled transborder air taxi operations are not governed by the United States-Canada Air Transport Services Agreement. Rather they are regulated by operating authorizations issued by both governments in a manner agreed upon in a 1951–52 exchange of letters between the Civil Aeronautics Board and the Canadian air transport regulatory body. That exchange includes the provision that "when any authorized operation appears to the aeronautical authorities in either country to be exceeding the limits of the authorization or otherwise creating a problem, the attention of the aeronautical authorities of the other country will be directed to the situation; and where possible, informal consultations should be held between the aeronautical authorities of both countries with a view toward reaching understanding as to further treatment of the carrier or service creating the problem." It further states, however, the "contemplation of the use of such consultative procedures is understood to be without prejudice to the right of either aeronautical authority to take unilateral action in any matter in which it appears to such aeronautical authority to be necessary or desirable."

[5] Issued by Orders 70–12–120, Dec. 21, 1970; E–22882, Nov. 15, 1965; 69–10–160, Oct. 31, 1969; 69–2–63, Feb. 14, 1969; 69–2–62, Feb. 14, 1969, respectively.

[6] We will also require the holders to set forth these limitations, in writing, to all persons who contract to use the holders' transborder services.

[7] The ATC has indicated it would monitor the services to this area and "* * * assess on their merits specific requests for limited operations other than set out in the orders * * *" A similar provision will give the Board the counterpart ability to make exceptions where warranted.

[8] Prior to the imposition of the ATC restrictions, the affected air traffic could move entirely by any properly licensed carriers of either flag. The ATC restrictions require the traffic to move entirely by Canadian carrier, or (less likely) by a transfer between United States and Canadian carriers. The Board's restrictions would permit the affected air traffic to move by transfer between United States and Canadian air carriers. Unaffected air traffic, i.e., to or from any of a large number of licensed bases of Canadian charter commercial air carriers, may continue to move entirely by properly licensed carriers of either flag, including the five holders named herein.

[9] We are not unmindful of the claimed ecological basis for the Canadian action. We note, however, that in its representations to the ATC the Board expressed the view that, "* * * solutions to any problems such as those relating to customs or fish and game laws could be worked out by measures directly appropriate to the problems, applied to the air carriers of both flags or their traffic in a nondiscriminatory manner." Whatever the merits of the ecological problems, regulatory policy requires that they be resolved in a manner other than the unilateral Canadian action taken here, which so seriously impairs reciprocity with respect to operations to this area, by reason of its discrimination against U.S. carriers.

[10] Since provision is made for response to this order, petitions for reconsideration of this order will not be entertained.

3. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by any memoranda in opposition before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented which warrant the holding of an evidentiary hearing; and

5. This order shall be served upon each carrier named in paragraph 1 above and the Ambassador of Canada, and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-6064 Filed 4-29-71;8:49 am]

[Docket Nos. 22859, 23080; Order 71-4-173]

DOMESTIC SERVICE MAIL RATES AND DOMESTIC AIR FREIGHT RATE INVESTIGATION

Order Denying Motion for Consolidation of Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1971.

On January 26, 1971 the Postmaster General (PMG) moved for consolidation of the subject proceeding[1] and the proceeding in Docket 22859—Domestic Air Freight Rate Investigation. In support thereof the PMG contends that there is an identity of parties and issues as well as a possible increase in administrative efficiency should the Board grant the instant motion. With respect to the possible increase in administrative efficiency, the PMG alleges inter alia that a consolidation would require only one Hearing Examiner, one trial team and one set of evidentiary submissions.

Flying Tiger filed an answer in support of the PMG's motion to consolidate advancing similar reasons as those set forth by the PMG, and additionally for the reason that Flying Tiger is concerned that prior consideration of the mail rate case will unduly and adversely influence the freight rate investigation in that a misplaced focus on freight costs would result during the course of the mail rate case.

Both United Air Lines, Inc. and Trans World Airlines, Inc., filed answers in opposition and state that consolidation would unduly complicate the freight rate investigation and unjustly delay resolution of the mail rate case.[2] United agrees that there may be substantial identity of carrier parties in these proceedings but indicates that there will be additional parties not common to both proceedings, such as air taxi operators, shippers, and air freight forwarders. United alleges that different legal criteria apply to these proceedings[3] and that this is indicative of a lack of "identity of issues." TWA maintains that administrative efficiency would not increase because the different handling characteristics of mail and freight would necessitate separate exhibits in any event. Finally, the answers in opposition indicate that the setting of mail rates has historically been handled separately and has not been dealt with in a proceeding encompassing matters of a different nature.

On consideration of the factors argued for and against consolidation of these two proceedings, the Board concludes that such consolidation is likely to delay reestablishment of final mail rates, to further complicate an already complex freight rate investigation, and that these likely results outweigh any potential administrative convenience which might flow from joining the cases. It is true, as the Postmaster General points out, that a principal issue in the mail rate proceeding will be the allocation of joint capacity costs to mail and that the same principal issue, as to air freight, will have to be resolved in the freight rate proceeding. Hence a certain amount of duplicative effort may result. Nevertheless cost allocation is to some extent an issue in every rate proceeding, and we are not prepared to hold up the mail rate case for this reason alone.

Prompt reestablishment of final service mail rates is in the interest of all concerned in view of the retroactive application of such rates. Flying Tiger's suggestion that interim final mail rates could be set assumes that agreement, in this regard, could be obtained. We find nothing to support this assumption. Moreover, while many of the parties and issues will be common to both proceedings, many will not. Additionally, the freight rate investigation will require the collection of a considerable volume of pertinent data that is not now reported by the parties to that proceeding. It is apparent that this process will require additional time and to delay the resolution of the mail rate case on this basis does not seem warranted.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly section 204(a) thereof,

It is ordered, That:

1. The motion filed by the Postmaster General for consolidation of proceedings be denied.

2. A copy of this order shall be filed and served upon all parties to Dockets 22859 and 23080.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-6065 Filed 4-29-71;8:49 am]

[Docket No. 18610]

SOUTHERN AIRWAYS, INC., ROUTE REALIGNMENT INVESTIGATION (NEW ROUTE AUTHORITY PHASE)

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 19, 1971, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW, Washington, DC, before Examiner Thomas P. Sheehan.

Requests for information and evidence, proposed statements of issues, and proposed procedural dates shall be submitted by counsel for the Bureau of Operating Rights to the Examiner and to the other parties on or before May 12, 1971, and statements by other parties shall be submitted to the Examiner and to Bureau Counsel on or before May 17, 1971.

Dated at Washington, D.C., April 27, 1971.

[SEAL] THOMAS L. WRENN, *Chief Examiner.*

[FR Doc.71-6066 Filed 4-29-71;8:49 am]

[Docket No. 22301]

PIEDMONT AVIATION, INC.

Notice of Postponement and Reassignment of Hearing

Notice is hereby given that hearing in the above-entitled proceeding now assigned for May 4, 1971, in Washington, D.C., before Examiner William H. Dapper is postponed, the place of hearing is changed, and that the case is reassigned to Examiner James S. Keith.

Hearing in the proceeding is reassigned for May 19, 1971, at 10 a.m., e.d.s.t., at the Holiday Inn, Southern Pines, N.C., before Examiner James S. Keith.

Dated at Washington, D.C., April 27, 1971.

[SEAL] THOMAS L. WRENN, *Chief Examiner.*

[FR Doc.71-6067 Filed 4-29-71;8:49 am]

CIVIL SERVICE COMMISSION

MACHINIST; DEPARTMENT OF THE ARMY

Notice of Cancellation of Manpower Shortage

Because of changes in the labor market and demand for this occupation, the Civil

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[1] On Feb. 8, 1971, the original Dockets, Nos. 22671 and 22731, were assigned a new Docket 23080 and a new caption, as referenced, in order to avoid confusion and to describe more accurately the investigation being undertaken herein.

[2] Flying Tiger, in its answer, notes that interim final mail rates could be resolved.

[3] Sections 406 and 1002 of the Federal Aviation Act of 1958, and the rules, regulations and policies associated therewith.

Service Commission has canceled the manpower shortage it had found under 5 U.S.C. section 5723, on March 15, 1966, for positions of Machinist, W-3414-11, Department of the Army, Rock Island Arsenal, Ill.

Effective March 30, 1971, the agency is no longer authorized to pay travel and transportation expenses to first post of duty appointees to these positions.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-6039 Filed 4-29-71;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Waiver of Application of Section 209, Clean Air Act, as Amended

On December 24, 1970, the Acting Commissioner, Air Pollution Control Office, by notice published in the FEDERAL REGISTER (35 F.R. 19598), called a public hearing pursuant to section 208(b) of the Clean Air Act, as amended (42 U.S.C. 1857f-6a(a), 81 Stat. 501, Public Law 90-148), concerning action proposed to be taken by the Administrator, Environmental Protection Agency, to wit: After a public hearing, as required by the statute, to waive application of the prohibitions of section 208(a) to the State of California with respect to applicable State standards which are more stringent than applicable Federal standards, unless he finds that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions of that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act, as amended.

As amended by Public Law 91-604 on December 31, 1970, section 208, without substantive change, was renumbered section 209 of the Clean Air Act, as amended.

The public hearing was held in Los Angeles, Calif., on January 26 and 27, 1971. The record of the public hearing was kept open until February 22, 1971, for the submission of written material, data or arguments by interested persons and for further action by the California Air Resources Board concerning the State standards and enforcement procedures with respect to which a waiver of section 209(a) was requested.

Having given due consideration to the record of the public hearing, all material submitted for that record, and other relevant information, I find that:

1. The State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles and new motor vehicle engines;

2. The State of California requires standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions;

3. Except as hereinafter specified, the following California State standards and related test and enforcement procedures are more stringent than the applicable Federal standards, are required to meet California's compelling and extraordinary conditions and are consistent with section 202(a) of the Clean Air Act, as amended:

(a) Exhaust emission standards, test and approval procedures for diesel engines used in heavy-duty vehicles manufactured after January 1, 1973, and exhaust emission standards, test and approval procedures for 1975 or later engine model-year diesel-powered engines for use in heavy-duty motor vehicles.

(b) Exhaust emission standards, test and approval procedures for 1973 and subsequent model-year engines in heavy-duty gasoline-powered motor vehicles, and exhaust emission standards, test and approval procedures for 1975 and subsequent model-year engines in heavy-duty gasoline-powered motor vehicles.

(c) Exhaust emission standards and test procedures for 1972 model gasoline-powered light-duty model vehicles, except to the extent that (1) special provision is not made for the calculation of hydrocarbon and carbon monoxide emissions from off-road utility vehicles, and (2) the use of 91 research octane number test fuel is required. Application of the 1972 light-duty vehicle emission standards to off-road utility vehicles manufactured during the model year 1972 does not give manufacturers of such vehicles the period of time necessary to develop and apply the requisite technology and does not reflect appropriate consideration of the cost of compliance within such period. The required use of 91 research octane fuel in testing 1972 light-duty motor vehicles does not afford manufacturers of vehicles presently designed to use higher octane fuels the period of time necessary to apply the requisite technology and does not give appropriate consideration to the cost of compliance within such period.

(d) Assembly-line test standards and procedures, except those applicable to 1973 model gasoline-powered light-duty motor vehicles. The State of California presented no evidence that the testing of each vehicle, rather than statistical quality sampling, is likely to result in significant reduction in emissions. In addition, 100 percent assembly-line vehicle testing during the 1973 model-year does not afford manufacturers of vehicles a sufficient period of time to develop and apply the requisite technology and does not reflect appropriate consideration of the cost of compliance within such period. This decision does not prejudice a later request by the State of California for waiver of the application of section 209(a) to a requirement for assembly-line testing of all motor vehicles to be sold in California, which such requirement is made effective at a date which affords manufacturers a sufficient period of time to make necessary arrangements to perform such testing, and where the State of California is able to relate such requirement to improvement in air quality.

(e) Amendments to Part I, Division 26, Health and Safety Code, West Annotated California Codes, as enacted by Chapter 1585, California Laws 1970, Assembly Bill No. 1174, approved September 20, 1970, except to the extent that Bill No. 1174 prohibits sale and registration of vehicles manufactured during the 1972 model-year and requires the use of 91 research octane number fuel in testing such vehicles. Application of Bill No. 1174 to 1972 model-year vehicles does not afford manufacturers of vehicles presently designed to use higher octane fuels the period of time necessary to apply the requisite technology and does not give appropriate consideration to the cost of compliance within such period.

4. The State of California has taken the position that section 9250.5, Vehicle Code, West Annotated California Codes, as enacted by Chapter 1586, California Laws 1970, Assembly Bill 919, approved September 19, 1970, is not subject to section 209(a). Based upon the State of California's representations as to the manner in which this bill will be implemented, it is not a "standard relating to the control of emissions" and does not "require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment," and is not subject to the provisions of section 209(a).

Now therefore, I hereby waive the application of section 209(a) to the State of California with respect to the following identified State standards and related enforcement procedures:

1. Provisions of title 13, California Administrative Code (as amended February 17, 1971):

(a) Section 1942 (Exhaust emission standards for diesel engines in 1973 and subsequent model vehicles over 6,001 pounds gross vehicle weight);

(b) Section 1943 (Exhaust emission standards for 1973 and subsequent model year engines in gasoline-powered motor vehicles over 6,001 pounds gross vehicle weight);

(c) Section 1944 (Exhaust emission standards for 1972 model gasoline-powered motor vehicles under 6,001 pounds gross vehicle weight);

(d) Section 2110, insofar as applicable to the 1972 model-year only (Assembly-Line for Pre-Delivery Testing).

2. Amendments to Part I, Division 26, Health and Safety Code, West Annotated California Codes, as enacted by Chapter 1585, California Laws 1970, Assembly Bill No. 1174, approved September 20, 1970: *Provided*, That due to considerations of technological feasibility,

this waiver shall not permit application of said Bill No. 1174 to the sale and registration of vehicles manufactured during the 1972 model year nor require the use of 91 research octane number fuel for testing 1972 model year vehicles.

3. Test Procedure:

(a) California Exhaust Emission Standards, Test and Approval Procedures for Diesel Engines in 1973 and Subsequent Model Vehicles over 6,001 Pounds Gross Vehicle Weight, dated November 18, 1970, amended February 17, 1971;

(b) California Exhaust Emission Standards, Test and Approval Procedures for 1973 and Subsequent Model Year Engines in Gasoline-Powered Motor Vehicles over 6,001 Pounds Gross Vehicle Weight, dated February 17, 1971;

(c) California Exhaust Emission Standards and Test Procedures for 1972-Model Gasoline-Powered Motor Vehicles under 6,001 Pounds Gross Vehicle Weight, adopted by the Air Resources Board December 15, 1970, amended February 17, 1971: *Provided*, That due to considerations of technological feasibility, this waiver for such standards and procedures (1) shall not become applicable with respect to hydrocarbon and carbon monoxide emissions from off-road utility vehicles (as defined at 45 CFR § 85.1(a)(8), 35 F.R. 17288) unless provision is made for calculating emissions of hydrocarbons and carbon monoxide equivalent to that provided at 45 CFR § 85.87(b), 35 F.R. 17301, and (2) shall not operate to require use of 91 research octane test fuel in testing 1972-model vehicles:

(d) California Assembly-Line Test Procedure, dated September 16, 1970, amended February 17, 1971, only insofar as applicable to the 1972 model-year.

This waiver is applicable only with respect to the model years specified above as defined in the applicable test procedures.

Certified copies of the above standards and procedures are available for inspection at Office of the Commissioner, Air Pollution Control Office, Environmental Protection Agency, 5600 Fishers Lane, Rockville, MD 20852. Copies of the standards and procedures may be obtained from the California Air Resources Board, 1108 14th Street, Sacramento, CA 95814.

Dated: April 27, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-6040 Filed 4-29-71;8:47 am]

McLAUGHLIN GORMLEY KING CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1134) has been filed by the McLaughlin Gormley King Co., 1715 Southeast Fifth Street, Minneapolis, MN 55414, proposing the establishment of tolerances (21 CFR Part 420) for residues of the insecticide *N*-octylbicycloheptene dicarboximide in the raw agricultural commodities milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses and sheep at 0.25 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a microcoulometric gas chromatographic procedure.

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-6026 Filed 4-29-71;8:45 am]

BACILLUS THURINGIENSIS BERLINER

Notice of Establishment of Temporary Exemption From Requirement of Tolerance for Microbial Pesticide

Nutrilite Products, Inc., Post Office Box 98, Lakeview, Calif. 92353, requested a temporary exemption from the requirement of a tolerance for residues of the insecticide *Bacillus thuringiensis* Berliner in or on the raw agricultural commodities peas and walnuts.

The Fish and Wildlife Service, U.S. Department of the Interior, advised that it has no objection to this temporary exemption.

It has been determined that a temporary exemption from requirement of a tolerance for residues of *B. thuringiensis* in or on peas and walnuts will protect the public health. It is therefore established as requested on condition that the insecticide is used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Nutrilite Products, Inc. name. This temporary exemption will expire April 23, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 512; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office, Environmental Protection Agency (36 F.R. 1228).

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-6025 Filed 4-29-71;8:45 am]

VELSICOL CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1131) has been filed by Velsicol Chemical Corp., 1725 K Street NW., Washington, DC 20006, proposing the establishment of a tolerance (21 CFR Part 420) for the combined residues of the herbicide dicamba and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on the raw agricultural commodity asparagus at 1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is an electron-capture gas chromatographic technique.

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-6024 Filed 4-29-71;8:45 am]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

ROSS LAKE ON SKAGIT RIVER

Public Hearings

The International Joint Commission announces that under date of April 7, 1971, the Governments of Canada and the United States requested the Commission to investigate the environmental consequences in Canada resulting from the elevation of Ross Lake on the Skagit River from elevation 1,602.5 feet to 1,725 feet above mean sea level; to report on the nature, scope, and impact of these consequences; and, to make such recommendations, not inconsistent with the Commission's Order of Approval dated January 27, 1942, and the related Agreement dated January 10, 1967, between the city of Seattle and the Province of British Columbia, as the Commission may deem appropriate for the protection and enhancement of the environment and the ecology in the area of Canada affected by the elevation of Ross Lake. The Commission has been requested to submit its conclusions and recommendations to the Governments by October 7, 1971.

In order to provide convenient opportunity for all those interested to be heard regarding the above matter, the Commission will conduct public hearings at the times and places listed hereunder.

Oral and documentary evidence that is relevant may be presented at the hearing, in person or by counsel. Depending on the number of persons wishing to be heard, the Commission may limit the time alloted to each witness. While not mandatory, written statements are desirable to supplement oral testimony and to insure accuracy of the record. When a written statement is presented, thirty (30) copies should be provided for Commission purposes. Additional copies of written statements may be deposited with the secretaries at the hearings for distribution to the news media and others interested.